

LCQ4: Sexual Conviction Record Check Scheme

Following is a question by the Hon Nixie Lam and a reply by the Secretary for Security, Mr Tang Ping-keung, in the Legislative Council today (November 29):

Question:

Under the existing Sexual Conviction Record Check (SCRC) Scheme, employers may request prospective employees or contract renewal employees who undertake work relating to children or mentally incapacitated persons to make an application for a check. There are views pointing out that the relevant arrangement can hardly provide adequate protection for disadvantaged persons. In this connection, will the Government inform this Council:

- (1) as there are views that the coverage of the SCRC Scheme is limited, whether the authorities will regularly review the coverage of the SCRC Scheme, and consider expanding the coverage concerned to include all tutors, coaches and volunteers who undertake work relating to children and adolescents; if so, of the details; if not, the reasons for that;
- (2) as applications for the check should be submitted by applicants on a voluntary basis to the Hong Kong Police Force, whether the authorities will consider changing the nature of the SCRC Scheme from voluntary to compulsory; if so, of the details; if not, the reasons for that; and
- (3) as details of an applicant's sexual conviction records will not be disclosed in the check result, whether the authorities will, by drawing reference from the experience of overseas countries, disclose details of an applicant's sexual conviction records, or grade sexual offences according to their gravity and inform the applicant's existing or prospective employer of the grade of sexual offence committed by the applicant; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government has been actively implementing various measures to protect children and mentally incapacitated persons (MIPs) from sexual abuse. Among them, the Hong Kong Police Force (Police) implemented the Sexual Conviction Record Check (SCRC) Scheme in December 2011 to minimise the risks of such category of persons being sexually abused. The SCRC Scheme, which is voluntary in nature, enables employers of organisations or enterprises that engage persons in undertaking child-related or MIP-related work to have an option to request eligible employees to apply to the Police for sexual conviction record check in order to ascertain whether they have any sexual

conviction records against a specified list of sexual offences (sexual conviction records).

While protecting children and MIPs is our top priority, the Government must strike a balance among various considerations, including meeting the needs of employers, maintaining the smooth operation and sustainability of the SCRC Scheme, when considering enhancement of the Scheme.

After consulting the Police, my reply to the various parts of the question is as follows:

(1) The scope of the SCRC Scheme has been gradually expanded since its implementation. Currently, eligible applicants include prospective employees, contract renewal staff as well as staff assigned by outsourced service providers to organisations or enterprises applying to organisations or enterprises (e.g. swimming clubs, ball games clubs, music centres) for work relating to children or MIPs.

As at the end of October 2023, the Police have received a total of over 580 000 new applications and 120 000 renewal applications, and the auto-telephone answering system has received more than 680 000 enquiries about the check results. In recent years, the numbers of new applications and renewal applications have seen an upward trend, reflecting that the existing scheme has been widely used and is effective in providing employers with useful information that help them make employment decisions.

After a public consultation, the Law Reform Commission (LRC) published a report on "Sentencing and Related Matters in the Review of Sexual Offences" in 2022, which covers a review of the SCRC Scheme. The LRC considers that the Government should extend the SCRC Scheme to its fullest to cover all existing employees, self-employed persons and volunteers.

The Government agrees that the scope of the SCRC Scheme should be expanded to further strengthen the protection of children and MIPs. However, there are a huge number of employees and volunteers in Hong Kong, and hundreds of thousands of them are believed to be engaged in child-related or MIP-related work. Therefore, in considering the expansion of scope, we have to be prudent and ensure that there is sufficient capacity given the limited capability of the electronic system and constraints in the Police's manpower and resources.

At present, the SCRC system is capable of handling about 60 000 applications each year. According to the performance pledge, the check result will be uploaded onto the auto-telephone answering platform within five working days after receiving an application. As the number of applications will substantially increase after expansion of the scope of the SCRC Scheme, the Police is making strenuous efforts in enhancing the SCRC electronic system and setting up an online application platform. We expect that starting from September of next year, the system will be able to process at least 210 000 new applications annually.

While ensuring that there is sufficient capacity to process applications made under the SCRC Scheme, we will expand the scope of the SCRC Scheme in a gradual and phased manner in the light of the recommendations of the LRC, with a view to minimising the risks of children and MIPs being sexually abused.

(2) As to whether SCRC should be made mandatory for employers or employees, we agree with the LRC's recommendation that the most urgent task is to expand the SCRC Scheme to its fullest and review the need to make it a mandatory scheme at an appropriate time later. Legislating for mandatory SCRC has to be considered carefully as it involves the stipulation of penalties. From the perspective of practical needs of society, mandatory checking may not be applicable to all situations. For instance, the risk of employees committing offences of sexual abuse is relatively low if there are also other people monitoring their work. In such cases, employers may not need to request the employees to conduct SCRC. Furthermore, we must strike a balance between the two major principles of protecting children and facilitating rehabilitation, and carefully assess the impacts of the introduction of mandatory measures on society. The existing voluntary SCRC Scheme has been operating smoothly and is well recognised by society, with its benefit of flexibility. Our priority task now is to expedite the enhancement of the existing scheme. Although we will not consider changing the scheme from voluntary to mandatory for the time being, we will keep in view its operation from time to time and review the need for legislation in the future.

(3) Currently, although the Government will not disclose details of an applicant's sexual conviction record to his/her employer, if an applicant has committed sexual offence(s), the Police will give the applicant a written record with the crime(s) committed specified therein. The employer may obtain such record from the applicant if necessary. If the applicant refuses to provide it, the employer may refuse to employ the applicant to prevent him/her from undertaking work that involves contact with children or MIPs. Therefore, there are already channels in place for employers to obtain such information. It is not necessary for the Police to take the initiative to disclose the details of the applicant's conviction to the employers, or to grade the sexual offences according to their degree of seriousness. This can strike an appropriate balance between protecting children and MIPs from sexual abuse and protecting privacy.

The Government will actively expedite the enhancement of the SCRC Scheme to further strengthen the protection of children and MIPs.

Thank you, President.